

Assembly Bill No. 987

CHAPTER 961

An act to add and repeal Section 21168.6.8 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 2018. Filed with
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 987, Kamlager-Dove. California Environmental Quality Act: sports and entertainment project.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA establishes administrative procedures for the review and certification of the EIR for a project and judicial review procedures for any action or proceeding brought to challenge the lead agency's decision to certify the EIR or to grant project approvals.

This bill would authorize the Governor to certify a specified sports and entertainment project located in the City of Inglewood for streamlining if the project meets certain requirements. The bill would apply certain rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals, including any appeals therefrom, to be resolved within 270 days of the filing of the certified record of proceedings with the court to an action or proceeding seeking judicial review of the lead agency's action related to the certified project. The bill would require the lead agency to prepare concurrently the record of proceedings with the environmental review of the certified project, as specified. Because the lead agency would be required to prepare concurrently the record of proceedings, this bill would impose a state-mandated local program. If the lead agency fails to certify an EIR for the project before January 1, 2025, the bill's provisions would be repealed as of that date.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Inglewood.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 21168.6.8 is added to the Public Resources Code, to read:

21168.6.8. (a) For the purposes of this section, the following definitions apply:

(1) “Applicant” means a private or public entity or its affiliates that proposes to implement and operate all or any portion of the project and its successors, heirs, and assignees.

(2) “Arena” means an 18,000 to 20,000 seat arena built as part of the project for National Basketball Association (NBA) basketball games and other spectator events.

(3) “Project” means a project located within the project area consisting of the arena plus practice and athletic training facility, and related parking and access, infrastructure construction or relocation, and landscaping, up to approximately 75,000 square feet of associated office space, up to approximately 30,000 square feet of sports medicine clinic space, up to approximately 70,000 square feet of ancillary retail, restaurant, community space, and similar uses, and a hotel, provided that the project meets all of the following:

(A) Receives Leadership in Energy and Environmental Design (LEED) gold certification for new construction within one year of the completion of the first NBA season.

(B) (i) Requires a transportation demand management program that, upon full implementation, will achieve and maintain a 15-percent reduction in the number of vehicle trips, collectively, by attendees, employees, visitors, and customers as compared to operations absent the transportation demand management program.

(ii) To accelerate and maximize vehicle trip reduction, each measure in the transportation demand management program shall be implemented as soon as feasible, so that no less than a 7.5-percent reduction in vehicle trips is achieved and maintained by the end of the first NBA season during which an NBA team has played at the arena.

(iii) A 15-percent reduction in vehicle trips shall be achieved and maintained as soon as feasible, but not later than January 1, 2030. The applicant shall verify achievement to the lead agency and the Office of Planning and Research.

(iv) If the applicant fails to verify achievement of the reduction required by clause (iii), the lead agency shall impose additional feasible measures

to reduce vehicle trips by 17 percent, or, if there is a rail transit line with a stop within one-quarter mile of the arena, 20 percent, by January 1, 2035.

(C) Is located on an infill site.

(D) Is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(4) "Project approval" means any action, activity, ordinance, resolution, agreement, approval, determination, finding, or decision taken, adopted, or approved by the lead agency required to allow the applicant to commence the construction of the project, as determined by the lead agency.

(5) "Project area" means real property in the City of Inglewood consisting of approximately 35 acres, including without limitation areas generally described as follows:

(A) Assessor identification numbers 4032-001-005, 4032-001-006, 4032-001-033, 4032-001-035, 4032-001-039, 4032-001-048, 4032-001-049, 4032-001-900 to 4032-001-913, inclusive, 4032-002-913 to 4032-002-917, inclusive, 4032-003-912, 4032-003-914, 4032-003-915, 4032-004-913, 4032-004-914, 4032-007-035, 4032-007-900 to 4032-007-905, inclusive, 4032-008-001, 4032-008-002, 4032-008-006, 4032-008-034, 4032-008-035, 4032-008-900 to 4032-008-905, inclusive, 4032-008-907, 4032-008-908, 4034-004-026, 4034-004-900 to 4034-004-913, inclusive, and 4034-005-900 to 4034-005-912, inclusive.

(B) West 101st Street from its intersection with South Prairie Avenue westerly to a line approximately 488 feet west of the western boundary of South Prairie Avenue, and West 102nd Street from its intersection with South Prairie Avenue easterly to a line approximately 883 feet east of the eastern boundary of South Prairie Avenue.

(C) Adjacent areas or air space to be used for access.

(6) "Transportation demand management program" means a specific program of strategies, incentives, and tools to be implemented, with specific annual status reporting obligations in accordance with paragraph (5) of subdivision (b), to reduce vehicle trips by providing opportunities for event attendees and employees to choose sustainable travel options such as transit, bicycle riding, or walking. A specific program of strategies, incentives, and tools includes, but is not limited to, the following:

(A) Provision of shuttles, charter buses, or similar services from a major transit stop to serve arena events.

(B) Provision of onsite electric vehicle charging stations in excess of applicable requirements.

(C) Provision of dedicated parking for car-share or zero-emission vehicles, or both types of vehicle, in excess of applicable requirements.

(D) Provision of bicycle parking in excess of applicable requirements.

(E) Inclusion of a transit facility with area dedicated to shuttle bus staging, ride share, bicycle parking, and other modalities intended to reduce the use of single occupant vehicles.

(b) The Governor may certify the project for streamlining pursuant to this section if all the following conditions are met:

(1) The project will result in a minimum investment of one hundred million dollars (\$100,000,000) in California upon completion of construction.

(2) (A) (i) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, employs a skilled and trained workforce, as defined in subdivision (d) of Section 2601 of the Public Contract Code, provides construction jobs and permanent jobs for Californians, and helps reduce unemployment. For purposes of this subdivision, “jobs that pay prevailing wages” means that all construction workers employed in the execution of the project will receive at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. If the project is certified for streamlining, the project applicant shall include this requirement in all contracts for the performance of the work.

(ii) Clause (i) does not apply to a contractor or subcontractor performing the work on the project that is subject to a project labor agreement requiring the payment of prevailing wages to all construction workers employed in the execution of the project and providing for enforcement of that obligation through an arbitration procedure. For purposes of this clause, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(B) (i) If the project is certified pursuant to this subdivision, contractors and subcontractors shall pay to all construction workers employed in the execution of the project at least the general prevailing rate of per diem wages.

(ii) Except as provided in clause (iii), the obligation of the contractors and subcontractors to pay prevailing wages pursuant to subparagraph (A) may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(iii) Clause (ii) does not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth

in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(3) The project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, as determined by the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code. The State Air Resources Board is encouraged to make its determination no later than 120 calendar days after receiving an application for review of the methodology and calculations of the project's greenhouse gas emissions.

(4) The project applicant demonstrates compliance with the requirements of Chapters 12.8 (commencing with Section 42649) and 12.9 (commencing with Section 42649.8) of Part 3 of Division 30, as applicable.

(5) The project applicant has entered into a binding and enforceable agreement that all mitigation measures required pursuant to this division and any other environmental measures required by this section to certify the project under this section shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures and any other environmental measures required by this section, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation. The project applicant shall submit to the lead agency an annual status report on the implementation of the environmental mitigation measures and any other environmental measures required by this section.

(6) The project applicant agrees to pay any additional costs incurred by the courts in hearing and deciding any case subject to this section, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the Rules of Court adopted by the Judicial Council.

(7) The project applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project pursuant to this division, in a form and manner specified by the lead agency for the project.

(c) (1) The Governor may certify the project for streamlining pursuant to this section if it complies with the conditions specified in subdivision (b).

(2) (A) Prior to certifying the project, the Governor shall make a determination that each of the conditions specified in subdivision (b) has been met. These findings are not subject to judicial review.

(B) (i) If the Governor determines that the project is eligible for streamlining pursuant to this section, he or she shall submit that determination, and any supporting information, to the Joint Legislative Budget Committee for review and concurrence or nonconcurrence.

(ii) Within 30 days of receiving the determination, the Joint Legislative Budget Committee shall concur or nonconcur in writing on the determination.

(iii) If the Joint Legislative Budget Committee fails to concur or nonconcur on a determination by the Governor within 30 days of the submittal, the project is deemed to be certified.

(3) The guidelines issued pursuant to Chapter 6.5 (commencing with Section 21178) apply for the implementation of this section to the extent the guidelines are applicable and do not conflict with specific requirements of this section, including the transportation demand management program specified in subparagraph (B) of paragraph (3) of subdivision (a).

(d) (1) Within 10 days of the Governor certifying the project pursuant to this section, the lead agency shall, at the applicant's expense, issue a public notice in no less than 12-point type stating the following:

“THE APPLICANT HAS ELECTED TO PROCEED UNDER SECTION 21168.6.8 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTION 21186.6.8 OF THE PUBLIC RESOURCES CODE. A COPY OF SECTION 21168.6.8 OF THE PUBLIC RESOURCES CODE IS INCLUDED BELOW

(2) The public notice shall be distributed by the lead agency as required for public notices issued pursuant to paragraph (3) of subdivision (b) of Section 21092.

(e) Notwithstanding any other law, the procedures set forth in subdivision (f) shall apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification of any environmental impact report for the project that is certified pursuant to this section or the granting of any project approvals.

(f) Rules 3.2220 to 3.2237, inclusive, of the California Rules of Court, as may be amended by the Judicial Council, shall apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification of any environmental impact report for the project or granting of any project approvals to require the actions or proceeding, including any potential appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. On or before July 1, 2019, the Judicial Council shall amend the California Rules of Court, as necessary, to implement this subdivision.

(g) Notwithstanding any other law, the preparation and certification of the record of proceedings for the certified project shall be performed in the following manner:

(1) The lead agency for the project shall prepare the record of proceedings pursuant to this division concurrently with the administrative process.

(2) All documents and other materials placed in the record of proceedings shall be posted on, and be downloadable from, an Internet Web site maintained by the lead agency commencing with the date of the release of the draft environmental impact report.

(3) The lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to, or relied on by, the lead agency in the preparation of the draft environmental impact report.

(4) A document prepared by the lead agency or submitted by the applicant after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is released or received by the lead agency.

(5) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any comment available to the public in a readily accessible electronic format within five days of its receipt.

(6) Within 14 business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(7) Notwithstanding paragraphs (2) to (6), inclusive, documents submitted to or relied on by the lead agency that were not prepared specifically for the project and are copyright protected are not required to be made readily accessible in an electronic format. For those copyright-protected documents, the lead agency shall make an index of these documents available in an electronic format no later than the date of the release of the draft environmental impact report, or within five business days if the document is received or relied on by the lead agency after the release of the draft environmental impact report. The index shall specify the libraries or lead agency offices in which hardcopies of the copyrighted materials are available for public review.

(8) The lead agency shall certify the final record of proceedings within five days after the filing of the notice required by subdivision (a) of Section 21152.

(9) Any dispute arising from the record of proceedings shall be resolved by the superior court. Unless the superior court directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.

(10) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(i) (1) If the lead agency fails to certify an environmental impact report for the project before January 1, 2025, this section shall become inoperative and is repealed as of that date.

(2) The lead agency shall notify the Secretary of State if it fails to certify the environmental impact report for the project before January 1, 2025.

(j) (1) As a condition of approval of the project, the lead agency shall require the applicant, with respect to any measures specific to the operation of the arena, to implement measures that will meet the requirements of this division by the end of the first NBA regular season or June of the first NBA regular season, whichever is later, during which an NBA team has played at the arena.

(2) To maximize public health, environmental, and employment benefits, the lead agency shall require measures that will reduce the emissions of greenhouse gases in the project area and in the neighboring communities of the arena.

(3) Not less than 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirement of paragraph (3) of subdivision (b) shall be from local, direct greenhouse gas emissions reduction measures, including, but not limited to, any of the following:

(A) Project design features or onsite reduction measures, or both design features and onsite reduction measures, that include, but are not limited to, any of the following:

(i) Implementing project design features that enable the arena to exceed the building energy efficiency standards set forth in Part 6 of Title 24 of the California Code of Regulations, except for 50 percent of emissions reductions attributable to design features necessary to meet the LEED gold certification requirement.

(ii) Requiring a transportation demand management program to reduce single-occupancy vehicular travel and vehicle miles traveled.

(iii) Providing onsite renewable energy generation, including a solar roof on the arena with a minimum peak generation capacity of 500 kilowatts.

(iv) Providing solar-ready roofs.

(v) Providing cool roofs and “cool parking” promoting cool surface treatment for new parking facilities.

(B) Off-site reduction measures in the neighboring communities, including, but not limited to, any of the following:

(i) Temporarily expanding the capacity of a public transit line, as appropriate, to serve arena events.

(ii) Paying its fair share of the cost of measures that expand the capacity of public transit, if appropriate, that is used by spectators attending arena events.

(iii) Providing funding to an off-site mitigation project consisting of replacing buses, trolleys, or other transit vehicles with zero-emission vehicles.

(iv) Providing off-site safety or other improvements for bicycles, pedestrians, and transit connections.

(v) Providing zero-emission transit buses to serve arena events and to meet other local transit needs, including senior and public school transportation services.

(vi) Undertaking or funding building retrofits to improve the energy efficiency of existing buildings.

(4) The applicant may obtain offset credits for up to 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirements of paragraph (3) of subdivision (b). The applicant shall, to the extent feasible, place the highest priority on the purchase of offset credits that produce emission reductions within the City of Inglewood or the boundaries of the South Coast Air Quality Management District. Any offset credits shall be verified by a third party accredited by the State Air Resources Board. Offset credits generated by a project located outside the United States shall not be used pursuant to this paragraph.

(k) As a condition of approval of the project, the lead agency shall require the applicant, in consultation with the South Coast Air Quality Management District, to implement measures that will achieve criteria pollutant and toxic air contaminant reductions over and above any emission reductions required by other laws or regulations in communities surrounding the project consistent with emission reduction measures that may be identified for those communities pursuant to Section 44391.2 of the Health and Safety Code.

(1) At a minimum, these measures shall achieve reductions of a minimum of 400 tons of oxides of nitrogen and 10 tons of PM_{2.5}, as defined in Section 39047.2 of the Health and Safety Code, over 10 years following the commencement of construction of the project. Of these amounts, reductions of a minimum of 130 tons of oxides of nitrogen and 3 tons of PM_{2.5} shall be achieved within the first year following commencement of construction of the project. The reductions required pursuant to this paragraph are in addition to any other requirements imposed by other laws.

(2) If the project applicant can demonstrate and verify to the South Coast Air Quality Management District that it has invested at least thirty million dollars (\$30,000,000) to achieve the requirements of this subdivision, the requirements of this subdivision shall be deemed met, so long as one-half of the reductions set forth in paragraph (1) are met.

(3) Greenhouse gas emissions reductions achieved pursuant to this subdivision shall count toward the applicant's obligations under paragraph (3) of subdivision (j).

(l) This section does not apply to a project that proposes the construction of a new gambling establishment, as defined in Section 19805 of the Business and Professions Code or Section 337 of the Penal Code.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the construction of a major new sports venue in the City of Inglewood, a city with the largest minority population in the United States, which will provide essential economic stimulus.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments

sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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